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PTO/SB/05 (03-01)

Approved for use through 10/31/2002. OMB 0651-0032
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**UTILITY
PATENT APPLICATION
TRANSMITTAL**

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	LEH-33
First Inventor	R. Peterson
Title	Metatarsal Guard
Express Mail Label No.	EL549543981US

APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)
(Submit an original and a duplicate for fee processing)
2. ☐ Applicant claims small entity status.
See 37 CFR 1.27.
3. ☒ Specification [Total Pages 8]
(preferred arrangement set forth below)
- Descriptive title of the invention
 - Cross Reference to Related Applications
 - Statement Regarding Fed sponsored R & D
 - Reference to sequence listing, a table, or a computer program listing appendix
 - Background of the Invention
 - Brief Summary of the Invention
 - Brief Description of the Drawings (if filed)
 - Detailed Description
 - Claim(s)
 - Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets 3]
5. Oath or Declaration [Total Pages]
- a. ☒ Newly executed (original or copy) — by assignee
Copy from a prior application (37 CFR 1.63 (d))
- b. ☐ (for continuation/divisional with Box 18 completed)
- i. ☐ **DELETION OF INVENTOR(S)**
Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76

ADDRESS TO:Assistant Commissioner for Patents
Box Patent Application
Washington, DC 20231

7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
- a. ☐ Computer Readable Form (CRF)
- b. Specification Sequence Listing on:
- i. ☐ CD-ROM or CD-R (2 copies); or
- ii. ☐ paper
- c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 CFR 3.73(b) Statement (When there is an assignee) ☒ Power of Attorney
11. ☐ English Translation Document (if applicable)
12. ☒ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
13. ☐ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503) (Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s) (if foreign priority is claimed)
16. ☐ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent
17. ☒ Other 37 CFR 1.47(b) Petition

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No. _____

Prior application information Examiner _____ Group Art Unit: _____

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

☐ Customer Number or Bar Code Label ☒ Correspondence address below

Name	Milton Wolson, Esq.				
Address	Malina & Wolson 60 East 42nd Street				
City	New York	State	New York	Zip Code	10165
Country	U.S.A.	Telephone	(212) 986-7410	Fax	(212) 983-8421

Name (Print/Type)	Milton Wolson	Registration No. (Attorney/Agent)	22,620
Signature	<i>Milton Wolson</i>	Date	June 6, 2001

Burden Hour Statement. This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231.

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FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT

(\$ 840

Complete if Known

Application Number	
Filing Date	
First Named Inventor	R. Peterson
Examiner Name	
Group Art Unit	
Attorney Docket No.	LEH-33

METHOD OF PAYMENT

1. ☐ The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to.

Deposit
Account
Number

13-1140

Deposit
Account
Name

Malina & Wolson

☐ Charge Any Additional Fee Required
Under 37 CFR 1.16 and 1.17

☐ Applicant claims small entity status
See 37 CFR 1.27

2. ☐ Payment Enclosed:

☐ Check ☒ Credit card ☐ Money
Order ☐ Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description	Fee Paid
101	710	201	355	Utility filing fee	710
106	320	206	160	Design filing fee	
107	490	207	245	Plant filing fee	
108	710	208	355	Reissue filing fee	
114	150	214	75	Provisional filing fee	
SUBTOTAL (1)					(\$ 710

2. EXTRA CLAIM FEES

Total Claims	Extra Claims	Fee from below	Fee Paid
Independent Claims	-20** =	X	
Multiple Dependent	-3** =	X	

Large Entity Small Entity

Fee Code	Fee (\$)	Fee Code	Fee (\$)	Fee Description
103	18	203	9	Claims in excess of 20
102	80	202	40	Independent claims in excess of 3
104	270	204	135	Multiple dependent claim, if not paid
109	80	209	40	** Reissue independent claims over original patent
110	18	210	9	** Reissue claims in excess of 20 and over original patent
SUBTOTAL (2)				

**or number previously paid, if greater, For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code	Large Entity Fee (\$)	Small Entity Fee Code	Small Entity Fee (\$)	Fee Description	Fee Paid
105	130	205	65	Surcharge - late filing fee or oath	
127	50	227	25	Surcharge - late provisional filing fee or cover sheet	
139	130	139	130	Non-English specification	
147	2,520	147	2,520	For filing a request for <i>ex parte</i> reexamination	
112	920*	112	920*	Requesting publication of SIR prior to Examiner action	
113	1,840*	113	1,840*	Requesting publication of SIR after Examiner action	
115	110	215	55	Extension for reply within first month	
116	390	216	195	Extension for reply within second month	
117	890	217	445	Extension for reply within third month	
118	1,390	218	695	Extension for reply within fourth month	
128	1,890	228	945	Extension for reply within fifth month	
119	310	219	155	Notice of Appeal	
120	310	220	155	Filing a brief in support of an appeal	
121	270	221	135	Request for oral hearing	
138	1,510	138	1,510	Petition to institute a public use proceeding	
140	110	240	55	Petition to revive - unavoidable	
141	1,240	241	620	Petition to revive - unintentional	
142	1,240	242	620	Utility issue fee (or reissue)	
143	440	243	220	Design issue fee	
144	600	244	300	Plant issue fee	
122	130	122	130	Petitions to the Commissioner	
123	50	123	50	Processing fee under 37 CFR 1.17(q)	
126	180	126	180	Submission of Information Disclosure Stmt	
581	40	581	40	Recording each patent assignment per property (times number of properties)	
146	710	246	355	Filing a submission after final rejection (37 CFR § 1.129(a))	
149	710	249	355	For each additional invention to be examined (37 CFR § 1.129(b))	
179	710	279	355	Request for Continued Examination (RCE)	
169	900	169	900	Request for expedited examination of a design application	
Other fee (specify) <u>Petition under 37 CFR 1.47 (b)</u>					\$130
*Reduced by Basic Filing Fee Paid					
SUBTOTAL (3)					(\$ 130

SUBMITTED BY

Name (Print/Type)

Milton Wolson

Registration No.
(Attorney/Agent)

22,620

Complete (if applicable)

Telephone

(212) 986-7410

Signature

Milton Wolson

Date

June 6, 2001

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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T0909" 24552860

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PATENT APPLICATION FEE DETERMINATION RECORD	Application or Docket Number <div style="text-align: center; border: 1px solid black; padding: 2px;"> LEH-33 </div>
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CLAIMS AS FILED - PART I				SMALL ENTITY		OR		OTHER THAN SMALL ENTITY	
FOR	NUMBER FILED <small>(Column 1)</small>	NUMBER EXTRA <small>(Column 2)</small>		RATE	FEE			RATE	FEE
BASIC FEE <small>(37 CFR 1.16(a))</small>					\$ 710				\$ _____
TOTAL CLAIMS <small>(37 CFR 1.16(c))</small>	6	minus 20 =	* 0	x \$ _____ =				x \$ _____ =	
INDEPENDENT CLAIMS <small>(37 CFR 1.16(b))</small>	2	minus 3 =	* 0	x _____ =				x _____ =	
MULTIPLE DEPENDENT CLAIM PRESENT <small>(37 CFR 1.16(d))</small>				+ _____ =				+ _____ =	
				TOTAL	\$ 710			TOTAL	

* If the difference in column 1 is less than zero, enter "0" in column 2

CLAIMS AS AMENDED - PART II					SMALL ENTITY		OR		OTHER THAN SMALL ENTITY	
AMENDMENT A	CLAIMS REMAINING AFTER AMENDMENT <small>(Column 1)</small>	HIGHEST NUMBER PREVIOUSLY PAID FOR <small>(Column 2)</small>	PRESENT EXTRA <small>(Column 3)</small>		RATE	ADDI-TIONAL FEE			RATE	ADDI-TIONAL FEE
AMENDMENT A	Total <small>(37 CFR 1.16(c))</small>	*	Minus	**	x \$ _____ =				x \$ _____ =	
	Independent <small>(37 CFR 1.16(b))</small>	*	Minus	***	x _____ =				x _____ =	
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <small>(37 CFR 1.16(d))</small>				+ _____ =				+ _____ =	
					TOTAL				TOTAL	
					ADDIT. FEE				ADDIT. FEE	
AMENDMENT B	CLAIMS REMAINING AFTER AMENDMENT <small>(Column 1)</small>	HIGHEST NUMBER PREVIOUSLY PAID FOR <small>(Column 2)</small>	PRESENT EXTRA <small>(Column 3)</small>		RATE	ADDI-TIONAL FEE			RATE	ADDI-TIONAL FEE
AMENDMENT B	Total <small>(37 CFR 1.16(c))</small>	*	Minus	**	x \$ _____ =				x \$ _____ =	
	Independent <small>(37 CFR 1.16(b))</small>	*	Minus	***	x _____ =				x _____ =	
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <small>(37 CFR 1.16(d))</small>				+ _____ =				+ _____ =	
					TOTAL				TOTAL	
					ADDIT. FEE				ADDIT. FEE	
AMENDMENT C	CLAIMS REMAINING AFTER AMENDMENT <small>(Column 1)</small>	HIGHEST NUMBER PREVIOUSLY PAID FOR <small>(Column 2)</small>	PRESENT EXTRA <small>(Column 3)</small>		RATE	ADDI-TIONAL FEE			RATE	ADDI-TIONAL FEE
AMENDMENT C	Total <small>(37 CFR 1.16(c))</small>	*	Minus	**	x \$ _____ =				x \$ _____ =	
	Independent <small>(37 CFR 1.16(b))</small>	*	Minus	***	x _____ =				x _____ =	
	FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <small>(37 CFR 1.16(d))</small>				+ _____ =				+ _____ =	
					TOTAL				TOTAL	
					ADDIT. FEE				ADDIT. FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

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**APPLICATION FOR UNITED STATES
PATENT PURSUANT TO 37 CFR 1.47(b)
PETITION, DECLARATION AND
POWER OF ATTORNEY**

A. Petition

Lehigh Safety Shoe Co. LLC., a Delaware Limited Liability Company, having a place of business at 120 Plaza Drive, Suite A, Vestal, N.Y. 13850-3640 (hereafter "Lehigh Safety Shoe"), hereby petitions the United States Patent Office that it be permitted to file a patent application, pursuant to 37 CFR 1.47(b), for a "Metatarsal Guard" invented by Ruk Peterson.

The undersigned Richard Jones, President of Lehigh Safety Shoe submits this Petition on behalf of Lehigh Safety Shoe. The statements made herein are based on my own knowledge, on information and belief and on advise of counsel. The basis of this Petition is that Lehigh Safety Shoe has a proprietary interest in the subject matter of the application; that Ruk Peterson, a former employee of Lehigh Safety Shoe, and its predecessor companies, entered into a Confidential Information and Assignment Agreement with Endicott Johnson Corporation ("Assignment Agreement"), that the Assignment Agreement was transferred with the assets of the safety shoe business from Endicott Johnson Corporation to Lehigh Safety Shoe Co., and that as a result of Lehigh Safety Shoe Co., merging with and into Lehigh Safety Shoe, Lehigh Safety Shoe has the benefit of the Assignment Agreement; that Mr. Peterson's conduct in this matter constitutes a refusal to sign the application papers and that the filing of the application is necessary to prevent irreparable damage and preserve the rights of the parties.

The facts in support of this Petition are set forth in the Declaration of Richard Jones, in Support of Petition to File Application for United States Patent Pursuant to 37 CFR 1.47(b),

annexed hereto as Exhibit A, and the Declaration of Milton Wolson, in Support of Petition to File Application for United Patent Pursuant to 37 CFR 1.47(b), annexed hereto as Exhibit B.

The Declaration of Richard Jones recites facts which demonstrate that Lehigh Safety Shoe has a proprietary interest in the invention which is the subject matter of the patent application and that Lehigh Safety Shoe has the benefit of the assignment of the invention from Ruk Peterson (MPEP §409.03(f)). The Declaration of Milton Wolson recites facts which demonstrate that Mr. Peterson's conduct constitutes a refusal to sign the application papers (MPEP §409.03(d)); that irreparable damage will occur unless a filing date is received and that a filing date is required to preserve the rights of the parties (MPEP §409.03(g)). Mr. Wolson's Declaration also sets forth Mr. Peterson's last known address.

**B. Declaration and
Power of Attorney**

Lehigh Safety Shoe declares that Ruk Peterson is believed to be the original, first and sole inventor of the subject matter which is claimed and for which a patent is sought on the invention entitled as set forth below and which is described in the attached specification, that the specification including the claims were forwarded to Ruk Peterson, that no application for patent or inventor's certificate on this invention has been filed by Applicant in any country foreign to the United States of America, that no application for patent or inventor's certificate on this invention is known to have been filed by Ruk Peterson in any country foreign to the United States of America; and that Applicant acknowledges its duty to disclose information which is material to the examination of this application in accordance with Title 37, Code of Federal Regulations,

Section 1.56(a).

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Title of Invention: METATARSAL GUARD

Name of Inventor: Ruk Peterson

Resident and
Post Office Address: 1039 Elton Drive
Endicott, N.Y. 13760

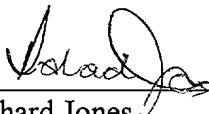
Country of Citizenship: U.S.A.

Applicant hereby appoints Milton Wolson, Reg. No. 22,620, of Malina & Wolson, 60 East 42nd Street, New York, NY 10165, telephone (212) 986-7410, facsimile (212) 983-8421, my attorney to prosecute this application and transact all business in the Patent and Trademark Office connected therewith.

Please send correspondence with respect to this application to Milton Wolson, Esq. at the above address.

Date: 5/25/01

LEHIGH SAFETY SHOE CO. LLC



Richard Jones
President